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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,796	02/06/2002	Koichi Kamon	44084-506	4491

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EXAMINER	
SHAH, AMEE A	

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/066,796	KAMON ET AL.	
	Examiner	Art Unit	
	Amee A. Shah	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *29 April 2002*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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DETAILED ACTION

Claims 1-14 are pending in this action.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

The disclosure is objected to because of the following informalities: (1) there are numerous grammatical and/or typographical errors throughout the disclosure, e.g. page 4, ¶0014, "other aspect of the present invention requires to dispose device..."; line 2 of claim 1, page 44, "a image" should be --an image--; line 9 of claim 5, page 45, "the reader read the" should be --the reader reads the--, and line of claim 6, page 45, "commercial product said product information" should likely be --commercial product wherein said product information--; and (2) the uses of "etc." (page 12, ¶0058, and page 40, ¶0159) are confusing and unnecessary examiner suggests removing the "etc." or clarifying. Appropriate corrections are required.

Examiner Note

The uses of the term "dispose" and its forms throughout the specification and claims are best understood by examiner to mean "arrange" as defined by Webster's II New Riverside Dictionary, Houghton Mifflin Co., New York, Rev. Ed., 1996.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8, 10, 11 and 13 are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter.

Claims 8, 10, 11 and 13 are directed to disembodied data structure which are per se not statutory. *C.f. In re Wamerdam.* Independent claims 8, 10, and 13 claim " a computer program," not embodied on a computer readable medium executable by a processor which represents a data structure resembling a data file without reciting any functional changes due to an application program and resulting in an useful, concrete and tangible result. Functional descriptive material, in combination with a computer readable medium, must be capable of producing a useful, concrete and tangible result when used in a computer system is statutory i.e., a set of instructions in combination with a computer system. *C.f. In re Wamerdam* (data structure stored in a computer memory), *and In re Lowery*, 32 USPQ2d 1031 (Fed. Cir. 1994) (data structure in a computer readable medium).

A claim to a computer readable medium encoded with functional descriptive material that can function with a computer to effect a practical application that results in a useful, concrete an tangible result (i.e. running an assembly line or executing a stock transaction) satisfies §101. Examples of Statutory Functional Descriptive Material are:

(a) A claimed computer-readable medium encoded with a functional data structure – this defines structural and functional relationships between the data structure and the hardware/ software components. *See Wamerdam.*

(b) A claimed computer-readable medium encoded with a computer program - this defines structural and functional relationships between the computer program and the computer itself which allows the program's functionality to be realized provided that a useful, concrete and tangible result is realized. *See* U.S. Patent 5,710,578 to Beauregard et al.

Since claim 11 is a dependency of claim 10, it also inherits the same deficiency.

Examiner suggests incorporating into the claims the limitations of the computer program --stored on a computer readable medium and executable by a computer or processor--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> > (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ladner et al. (Patent No. 6,002,855).

Referring to claim 1. Ladner et al. discloses an electronic catalogue system for displaying on one screen an image of a commercial product and an image of an article for comparison which is for comparing a size with the commercial product and notifying a size, comprising:

- reader for reading three-dimensional data of the commercial product and three-dimensional data of the article for comparison (col. 5, line 61 through col. 6, line 5 and

col. 9, lines 30-55 – note that the reader is the CAD program using the graphics database which is capable of reading three-dimensional data of the commercial product and three-dimensional data of the article for comparison, and that the article of comparison is the defined space);

- observation image generator for generating an observation image in which the commercial product and the article for comparison are located at predetermined positions based on the read three-dimensional data of the commercial product and three-dimensional data of the article for comparison (col. 5, line 61 through col. 6, line 5 and col. 9, lines 30-55 – note that the observation image generator is the CAD program that generates three-dimensional visual displays which is capable of generating an observation image in which the commercial product and the article for comparison are located at predetermined positions based on the read three-dimensional data of the commercial product and three-dimensional data of the article for comparison); and
- displaying device for displaying the generated observation image (Figure 1 and col. 4, line 64 through col. 5, line 5 – note that the displaying device is the conventional I/O interface which is capable of displaying the generated observation image).

Referring to claim 2. Ladner et al. also discloses an electronic catalogue system according to claim 1 further comprising:

- designator for designating a rotation axis and an angle of rotation (col. 10, lines 5-24 – note that the designator is the mouse by which the user selects an angle which is capable of designating a rotation axis and an angle of rotation); and

- rotating device for rotating the observation image based on the designated rotation axis and the designated angle of rotation (col. 10, lines 5-24 – note that the rotating device is the CAD program which is capable of rotating the observation image based on the designated rotation axis and the designated angle of rotation).

Referring to claim 3. Ladner et al. also discloses an electronic catalogue system according to claim 1 further comprising:

- designator for designating a rotation axis and an angle of rotation for each one of the commercial product and the article for comparison (col. 10, lines 5-24 – note that the designator is the mouse by which the user selects an angle which is capable of designating a rotation axis and an angle of rotation for each one of the commercial product); and
- rotating device for rotating the image the commercial product or the image of the article for comparison based on the designated rotation axis and the designated angle of rotation (col. 10, lines 5-24 – note that the rotating device is the CAD program which is capable of rotating the image the commercial product or the image of the article for comparison based on the designated rotation axis and the designated angle of rotation).

Referring to claim 4. Ladner et al. also disclose an electronic catalogue system according to claim 1 further comprising:

- dispose device for automatically selecting the article for comparison in accordance with a type and a size of the commercial product (Figs. 13 and 14, col. 8, lines 35-40, and col.

10 line 66 through col. 11, line 17 – note the dispose device is the place-clusters routine which is capable of automatically selecting the article for comparison in accordance with a type and a size of the commercial product).

Referring to claim 5. Ladner et al. also discloses an electronic catalogue system according to claim 1 further comprising:

- article for comparison storing device for storing three-dimensional data of a plurality of articles for comparison (Figs. 8 and 9, col. 8 lines 21-26 and lines 53-60 – note that the storing device is the disk memory containing data records for projects which is capable of storing three-dimensional data of a plurality of articles for comparison); and
- selector for selecting the three-dimensional data of one article for comparison from the article for comparison storing device (Fig. 9, col. 8, lines 21-26, and col. 9, lines 30-56 – note the selector is the CAD program which is capable of selecting the three-dimensional data of one article for comparison from the article for comparison storing device),
- wherein the reader reads the three-dimensional data of the selected article for comparison (col. 8, lines 21-26, and 53-60 and col. 9, lines 30-56).

Referring to claim 6. Ladner et al. also discloses an electronic catalogue system according to claim 1 further comprising:

- product storing device for storing a product information regarding features of the commercial product wherein said product information is associated with the three-dimensional data of the commercial product (col. 5, lines 19-28 and 60-65 – note that the

storing device is the disk memory which is capable of storing a product information regarding features of the commercial product wherein said product information is associated with the three-dimensional data of the commercial product),

- wherein the displaying device displays the observation image together with the product information which corresponds to the image of the commercial product which is included in the observation image (Figs. 18-20, and col. 15, lines 18-25 – note that the product information comprises the options).

Referring to claim 7. Ladner et al. discloses a server used in an electronic catalogue system for displaying on one screen an image of a commercial product and an image of an article for comparison which is for comparing a size with the commercial product and notifying a size, the server comprising;

- three-dimensional data storing device for storing three-dimensional data of the commercial product and three-dimensional data of the article for comparison (col. 5, lines 19-28 and 60-65 and col. 8, lines 21-26 – note that the storing device is the disk memory which is capable of storing three-dimensional data of the commercial product and three-dimensional data of the article for comparison);
- image generator for generating the image of the commercial product and the image of the article for comparison based on the three-dimensional data of the commercial product and the three-dimensional data of the article for comparison stored in the three-dimensional data storing device (col. 5, line 61 through col. 6, line 5 and col. 9, lines 30-55 - note that the observation image generator is the CAD program which is capable of generating the

image of the commercial product and the image of the article for comparison based on the three-dimensional data of the commercial product and the three-dimensional data of the article for comparison stored in the three-dimensional data storing device); and

- sender for sending the generated image of the commercial product and the generated image of the article for comparison (col. 4, lines 38-50 – note that the sender is the system comprising is part of a microprocessor and computer routines and which is capable of sending the generated image of the commercial product and the generated image of the article for comparison).

Referring to claims 8-9. All of the limitations in apparatus claims 8-9 are closely parallel to the limitations of method claim 1, analyzed above and are rejected on the same bases.

Referring to claims 10 and 12. Ladner et al. discloses a computer program for a terminal apparatus used in an electronic catalogue system for displaying a image of a commercial product on a screen, the computer program causing the terminal apparatus to execute (claim 10) and wherein the program is recorded on a computer readable recording medium (claim 12):

- reading data which are for generating the image of the commercial product and data which are for generating a image of an article for comparison which is for comparing a size with the commercial product and notifying a size (col. 5, line 61 through col. 6, line 5 and col. 9, lines 30-55);

- generating an observation image in which the commercial product and the article for comparison are located at predetermined positions based on respective the read data (col. 5, line 61 through col. 6, line 5 and col. 9, lines 30-55); and
- changing a positional relationship between the commercial product and the article for comparison and updating the observation image (col. 10, lines 5-24).

Referring to claims 11. Ladner et al. discloses a computer program according to claim 10 further causing the terminal apparatus to execute automatically selecting the article for comparison in accordance with a type and a size of the commercial product (Figs. 13 and 14, col. 8, lines 35-40, and col. 10 line 66 through col. 11, line 17 – note the place-clusters routine automatically selects the article for comparison in accordance with a type and a size of the commercial product).

Referring to claims 13-14. Ladner et al. discloses a computer program for a terminal apparatus used in an electronic catalogue system for displaying a image of a commercial product on a screen, the computer program causing the terminal apparatus to execute (claim 13) and wherein the program is recorded on a computer readable recording medium (claim 14):

- reading data which are for generating a image of a first commercial product and a image of a second commercial product (col. 5, line 61 through col. 6, line 5 and col. 9, lines 30-55); and

- generating an observation image in which the commercial products and an article for comparison are located at predetermined positions based on respective the read data (col. 5, line 61 through col. 6, line 5 and col. 9, lines 30-55).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Matsuda, U.S. Pub. No. 2001/0055039 A1, disclosing a three-dimensional virtual reality space display processing apparatus and method, including storing three-dimensional data, creating three-dimensional graphics and rotating views of the graphics (*see* pages 3-8); (2) Kjallstrom, U.S. Pub. No. 2002/0010655 A1, disclosing a real-time, three-dimensional, interactive, configurable product display system including retrieving stored information regarding a product, configuring the product in accordance to user instructions and displaying three-dimensional view of product (*see* pages 2-6 and figures); (3) Yang, U.S. Pub. No. 2002/0055891 A1, disclosing a researching method and system for commercial goods interests by using electronic catalogues including interactive three-dimensional data and disclosing prior art of generating, displaying and controlling three-dimensional images of product (*see* pages 1-2); (4) Trakjkovic et al., U.S. Pub. No. 2003/0050864 A1, disclosing a method and system for aiding a customer in purchasing clothes online, including capturing three-dimensional data, generating a three-dimensional model, retrieving stored three-dimensional information regarding the model and clothes, generating a three-dimensional image of the model wearing the clothes, and displaying that image (*see* pages 1-4); (5) Takeda, JP 09218769 A, cited by applicant,

disclosing an electronic catalog device to permit user to more easily understand the actual size of merchandise (*see* Abstract); and (6) Business Editors, "Synthonics Licenses Advanced 3-D Modeling Technology to Electronic Commerce Web Site Developer," Business Wire, New York, Feb. 17, 1998, pg. 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAS
May 31, 2005

J. C. Gart
Primary Examiner